THE HON'BLE Ms. JUSTICE G.ROHINI

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WRIT PETITION NO: 25271 of 2006

Dated: 28-12-2006

Between:

K.Narender Goud

..... PETITIONER

AND

The Prohibition and Excise Superintendent,

Gadwal, Mahaboobnagar District and 2 others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

–

WRIT PETITION NO: 25271 of 2006

O R D E R:

The petitioner was granted T.C.S. licence on 16-04-2003 valid up to 30-09-2007. By order, dated 16-10-2006, passed by the first respondent in exercise of powers under Section 31(1) (b) of the Andhra Pradesh Excise Act, 1968, the petitioner's licence was cancelled on the allegation that the petitioner had indulged in adulteration of toddy. Aggrieved by the same, the petitioner preferred an appeal, which was also dismissed by the 3rd respondent by order dated 27-11-2006. Hence, this writ petition.

Though various grounds have been raised on merits contending that the findings recorded by both the respondents
1 and 3 are untenable, it is primarily contended by the learned counsel for the petitioner that the petitioner was not afforded an opportunity by the 3rd respondent before dismissing the appeal.

It is to be noted that the appeal was preferred on 09-11-2006 and the same was dismissed by order dated 27-11-2006 on the basis of the records produced by the Prohibition and Excise Superintendent, Gadwal.

The specific plea raised by the petitioner that no opportunity was given to the petitioner was not denied by the respondents. As a matter of fact, under instructions, the learned Government Pleader for Prohibition and Excise submitted that the said order was passed without hearing the petitioner.

Under Section 7(2) of the Andhra Pradesh Excise (Appeal and Revision) Rules, 1969 (for short 'the Rules'), before an appeal is rejected, the appellate authority shall assign the reasons and the petitioner shall be given an opportunity of making his representation in that behalf. Rule 9 of the Rules also provides that where the appeal is not summarily rejected on the grounds mentioned in sub-rule (1) of Rule 7, the appellate authority has to fix a date for personal hearing of the case if it considers necessary so to do. Since no such procedure was followed and admittedly the petitioner was not given an opportunity before deciding the appeal, on that ground alone, the order of the 3rd respondent is liable to be set aside.

Accordingly, without expressing any opinion on merits, the order, dated 16-10-2006, is set aside and the writ petition is disposed of with a direction to the 3rd respondent to consider the appeal on merits and pass appropriate orders afresh in accordance with law. No costs.

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G. ROHINI, J

Dated: 28-12-2006

KLP